

NELLA CUTLERY (U.S.A.), INC., )  
et al., )  
 )  
Plaintiffs, )  
 )  
v. ) No. 11 C 6908  
 )  
COZZINI BROTHERS, INC., et al., )  
 )  
Defendants. )

Nella Cutlery (U.S.A.), Inc. ("Nella (USA)") and Nella Cutlery, L.L.C. ("Nella LLC") invoke the diversity branch of federal jurisdiction to sue Cozzini Brothers, Inc. ("Cozzini Brothers"), Oscar Cozzini ("Oscar") and Oswald Cozzini ("Oswald") in a four-count Complaint for Injunctive and Other Relief. This memorandum order is issued sua sponte because of some problematic aspects of the Complaint's allegations as to diversity (this Court has an independent threshold obligation to confirm the existence of subject matter jurisdiction--see, e.g., Cook v. Winfrey, 141 F.3d 322, 325 (7th Cir. 1998) and Wernsing v. Thompson, 423 F.3d 732, 743 (7th Cir. 2005)).

1. After setting forth comparable (and quite

irrelevant) corporate-type allegations as to Nella LLC,  
Complaint ¶3 says simply:

None of the Members of Nella Cutlery, L.L.C. are  
Illinois residents.

Even apart from speaking of residence rather than  
citizenship (those two statuses do not of course necessarily  
coincide), the just-quoted conclusory assertion does not  
enable this Court to carry out its independent obligation.  
Instead plaintiffs' counsel must provide the relevant  
citizenship information as to each member of Nella LLC.

2. True to the form employed as to Nella LLC's  
members, plaintiffs' counsel speaks only of Oscar's and  
Oswald's places of residence rather than citizenship in  
Complaint ¶¶5 and 6. Such obvious noncompliance with the  
required showing of diversity of citizenship has often been  
met by our Court of Appeals with such statements as "When  
the parties allege residence but not citizenship, the  
district court must dismiss the suit" (Adams v. Catrambone,  
359 F.3d 858, 861 n.3 (7th Cir. 2004), quoting earlier  
caselaw in this Circuit).

This Court is loath to apply such a Draconian sanction to  
force the rewriting and refileing of a pleading that occupies 25  
pages plus multipage exhibits, rather than leaving it to defense  
counsel to identify any other flaws and to police the litigation  
for their clients. That said, however, it must be added that

unless plaintiffs' counsel files an appropriate amendment to the Complaint (not a self-contained Amended Complaint) on or before October 21, 2011 to cure the flaw identified here, this Court would be compelled to dismiss both the Complaint and this action for lack of subject matter jurisdiction.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

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Milton I. Shadur  
Senior United States District Judge

Date: October 5, 2011